

EXHIBIT 2

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1
2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK
4

5 -----x
6 AUSTIN FENNER and IKIMULISA LIVINGSTON,
7 Plaintiffs,

8 vs.

9 NEWS CORPORATION, NYP HOLDINGS, INC.,
10 d/b/a THE NEW YORK POST and DAN GREENFIELD
11 and MICHELLE GOTTHELF,
12 Defendants.
13 -----x

14
15 C O N F I D E N T I A L
16 ATTORNEYS' EYES ONLY
17

18 VIDEOTAPED DEPOSITION OF MICHELLE GOTTHELF
19 New York, New York
20 Thursday, March 29, 2012
21
22
23

24 Reported by: David Henry
25 JOB NO. 47779

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<p>1 Gotthelf - CONFIDENTIAL</p> <p>2 for reporters?</p> <p>3 MR. LERNER: Objection to form.</p> <p>4 A. Well, we went -- ask me the</p> <p>5 question again.</p> <p>6 Q. Would these associate metro</p> <p>7 editors ever rewrite stories for reporters?</p> <p>8 A. On occasion, but they were more</p> <p>9 responsible for editing stories.</p> <p>10 Q. Okay, describe to me, what is the</p> <p>11 difference between rewriting and editing?</p> <p>12 A. I'm sorry, it's so complicated.</p> <p>13 Editing is you get a story in and you edit</p> <p>14 it. It doesn't need restructuring,</p> <p>15 additional information, you edit it.</p> <p>16 Rewriting is more intensive work,</p> <p>17 restructuring, adding or taking away facts</p> <p>18 or making sure facts are clear, it's a more</p> <p>19 painstaking process, more extensive.</p> <p>20 Q. Would stories ever be reduced in</p> <p>21 size by you and/or these other associate</p> <p>22 editors or deputy editors?</p> <p>23 MR. LERNER: Objection.</p> <p>24 A. On occasion.</p> <p>25 Q. In other words was that part of</p>	<p>1 Gotthelf - CONFIDENTIAL</p> <p>2 the job, what the different editors would</p> <p>3 do if say a story came in and it was too</p> <p>4 long for the space you had, would it be</p> <p>5 unusual to come in and cut some out or</p> <p>6 shrink it?</p> <p>7 MR. LERNER: Objection.</p> <p>8 A. Not unusual at all.</p> <p>9 Q. Now, you also had rewriters, is</p> <p>10 that correct?</p> <p>11 A. Yes.</p> <p>12 Q. And who were they? In other</p> <p>13 words what was their job? Or there's two</p> <p>14 questions there. What was the job of the</p> <p>15 rewriters?</p> <p>16 A. They were -- they are, they're</p> <p>17 still there, they are assigned to come into</p> <p>18 the office and work on stories from the</p> <p>19 office and write those stories. Basically</p> <p>20 they take news feeds from a number of</p> <p>21 reporters and they craft the story. They</p> <p>22 also report on them as well, to boil it</p> <p>23 down to its basic.</p> <p>24 Q. Now, when you have a story come</p> <p>25 in, you have to reduce it in size. Does</p>
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<p>1 Gotthelf - CONFIDENTIAL</p> <p>2 that mean it was a bad story?</p> <p>3 MR. LERNER: Objection.</p> <p>4 A. Not necessarily.</p> <p>5 Q. So in other words you might get a</p> <p>6 good story, you just don't have room for a</p> <p>7 longer piece and you need to shrink it?</p> <p>8 MR. LERNER: Objection.</p> <p>9 A. Sure, it can happen.</p> <p>10 Q. The next name on the chart, and</p> <p>11 I'm going to go through the reporters now.</p> <p>12 I'll start with this. When we have</p> <p>13 something that says reporter, what does</p> <p>14 that mean? Not necessarily on this chart,</p> <p>15 but when we talk about a reporter at the</p> <p>16 paper, what does that mean to you?</p> <p>17 A. A reporter, well, how would I</p> <p>18 answer this. No -- I'm sorry, I want to</p> <p>19 give you the clearest answer. A reporter</p> <p>20 is responsible for gathering facts at its</p> <p>21 most basic term.</p> <p>22 Q. Okay, so a reporter is basically</p> <p>23 someone that you send out to gather facts?</p> <p>24 MR. LERNER: Objection.</p> <p>25 A. Well, I'm talking about at its</p>	<p>1 Gotthelf - CONFIDENTIAL</p> <p>2 most basic term. The reporters -- I'll let</p> <p>3 you ask the questions.</p> <p>4 Q. Well, in other words, I see at</p> <p>5 least a few different titles here, we have</p> <p>6 editor, we have reporter and we have</p> <p>7 rewrite. So what is the difference between</p> <p>8 those three things?</p> <p>9 A. A rewrite is predominantly a</p> <p>10 writer in the office. A reporter can be</p> <p>11 anywhere reporting on stories.</p> <p>12 Q. Okay.</p> <p>13 A. That's -- I mean, that's the</p> <p>14 basic distinction.</p> <p>15 Q. Okay. And actually I notice I</p> <p>16 actually skipped, there is one other</p> <p>17 editor. Murray Weiss, is Murray</p> <p>18 Weiss black?</p> <p>19 A. I'm sorry, where do you --</p> <p>20 Q. It says criminal justice, it's</p> <p>21 actually underneath -- I missed it, so --</p> <p>22 underneath Michael Hechtman, it says</p> <p>23 criminal justice editor.</p> <p>24 A. Under Michael Hechtman, that</p> <p>25 is -- it's just a title, criminal justice</p>

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<p>1 Gotthelf - CONFIDENTIAL</p> <p>2 A. No, I know how they make the</p> <p>3 determinations.</p> <p>4 Q. How do they make the</p> <p>5 determinations?</p> <p>6 A. The people who do the most on the</p> <p>7 story get bylines and the people who have</p> <p>8 done the least get taglines, and people who</p> <p>9 haven't done anything don't get anything.</p> <p>10 Q. Would it ever be true that</p> <p>11 someone who contributed to a story got</p> <p>12 neither a byline nor a tagline?</p> <p>13 A. There are circumstances that a</p> <p>14 person will think they contributed to a</p> <p>15 story but didn't and didn't get a byline or</p> <p>16 a tagline.</p> <p>17 Q. Okay, give me an example of that</p> <p>18 happening.</p> <p>19 MR. LERNER: Objection.</p> <p>20 A. You have a news story, there is a</p> <p>21 reporter sent to an address and sits</p> <p>22 outside the address the whole day, doesn't</p> <p>23 get anything, didn't really contribute to</p> <p>24 the story, thinks they've done a day's</p> <p>25 work, wants a tagline on the story, didn't</p>	<p>1 Gotthelf - CONFIDENTIAL</p> <p>2 really do anything.</p> <p>3 Q. Okay. If the person provided</p> <p>4 information that was used in the story,</p> <p>5 would they always get a tagline?</p> <p>6 MR. LERNER: Objection.</p> <p>7 A. If the person provided</p> <p>8 information would they always get a</p> <p>9 tagline? Most of the time they would.</p> <p>10 Q. So would you consider bylines to</p> <p>11 be important?</p> <p>12 MR. LERNER: Objection.</p> <p>13 A. What do you mean by important? I</p> <p>14 think a paycheck is important.</p> <p>15 Q. Why is a paycheck important?</p> <p>16 A. Because you feed your family with</p> <p>17 a paycheck. A byline is an added bonus.</p> <p>18 Q. So a byline is a good thing?</p> <p>19 A. A byline is a good thing, yeah, a</p> <p>20 byline is a good thing.</p> <p>21 Q. And do people generally like to</p> <p>22 have bylines?</p> <p>23 MR. LERNER: Objection.</p> <p>24 A. Some reporters don't want their</p> <p>25 bylines on stories.</p>
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<p>1 Gotthelf - CONFIDENTIAL</p> <p>2 Q. When would that occur?</p> <p>3 A. When they want to protect</p> <p>4 sources.</p> <p>5 Q. So how would the rewrite person</p> <p>6 decide not to put the byline of the person?</p> <p>7 A. If the person would ask, please</p> <p>8 don't put my byline on the story, the</p> <p>9 byline doesn't go on the story.</p> <p>10 Q. Are there any other criteria --</p> <p>11 A. There are no absolutes here.</p> <p>12 Q. Are there any other criteria that</p> <p>13 you know of that's used to determine who</p> <p>14 gets a byline?</p> <p>15 A. No, that's -- I've pretty much</p> <p>16 covered it.</p> <p>17 Q. So a person who gets a byline as</p> <p>18 opposed to a tagline, would that be a sign</p> <p>19 the person has made an important</p> <p>20 contribution to the story?</p> <p>21 A. Yes.</p> <p>22 Q. What is an enterprise story?</p> <p>23 A. Something that you create on your</p> <p>24 own that isn't off of a news event, that</p> <p>25 hasn't been in the paper, where you're</p>	<p>1 Gotthelf - CONFIDENTIAL</p> <p>2 breaking your own news.</p> <p>3 Q. Are there certain reporters who</p> <p>4 are expected to do enterprise stories?</p> <p>5 A. All of the reporters are expected</p> <p>6 to do enterprise stories.</p> <p>7 Q. Are there reporters who you have</p> <p>8 criticized for not doing enough enterprise</p> <p>9 stories?</p> <p>10 A. Yes.</p> <p>11 Q. Is this a common complaint?</p> <p>12 MR. LERNER: Objection.</p> <p>13 Q. In other words are there --</p> <p>14 A. I would like to get more</p> <p>15 enterprise stories out of everyone every</p> <p>16 day.</p> <p>17 Q. Are there any reporters that you</p> <p>18 can point to that you say this person gives</p> <p>19 me enough enterprise stories that you're</p> <p>20 happy with their performance?</p> <p>21 MR. LERNER: Objection.</p> <p>22 A. Sure.</p> <p>23 Q. Who would those people be?</p> <p>24 A. Who give me enough enterprise</p> <p>25 stories?</p>

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<p>1 Gotthelf - CONFIDENTIAL</p> <p>2 Q. Yes, that you're happy with the</p> <p>3 number of enterprise stories.</p> <p>4 A. We have -- some reporters are</p> <p>5 better at it than others, but sure. Do you</p> <p>6 want me to go through my list?</p> <p>7 Q. Sure. And again, just the ones</p> <p>8 who you think have given you sufficient</p> <p>9 enterprise stories.</p> <p>10 MR. LERNER: Objection, form.</p> <p>11 A. Maggie Haberman, Jeane Macintosh,</p> <p>12 Dan Mangan, Tom Topousis back then, Todd</p> <p>13 Venezia, Jeremy Olshan, William Gorta,</p> <p>14 Murray Weiss, Yoav Gonen, Larry Celona.</p> <p>15 Those are the best of the best enterprise</p> <p>16 people who pitch.</p> <p>17 Q. So would it be fair to say that</p> <p>18 most of your reporters are not pitching you</p> <p>19 enough enterprise stories?</p> <p>20 MR. LERNER: Objection.</p> <p>21 A. Enough to me is never ending.</p> <p>22 Everybody should pitch more, but there are</p> <p>23 people who are better at it than others.</p> <p>24 Q. Can you give me an example of a</p> <p>25 good enterprise story that was published</p>	<p>1 Gotthelf - CONFIDENTIAL</p> <p>2 say while Austin Fenner was working?</p> <p>3 A. While Austin Fenner was working,</p> <p>4 I can give you a good enterprise story just</p> <p>5 off the top of my head.</p> <p>6 Q. Okay, let's start with that.</p> <p>7 A. I'm thinking when Austin -- well,</p> <p>8 give me a few seconds to think about it.</p> <p>9 Q. Okay, take your time.</p> <p>10 A. I just want to note, I look after</p> <p>11 200 stories a week.</p> <p>12 Q. I understand.</p> <p>13 A. I don't you know the time. I can</p> <p>14 give you a good example of a enterprise</p> <p>15 story.</p> <p>16 Q. Okay, give me a good example of</p> <p>17 an enterprise story.</p> <p>18 A. One of our field reporters had a</p> <p>19 source who found that a teacher was</p> <p>20 blogging about being a part-time stripper.</p> <p>21 That's a great story.</p> <p>22 Q. When was that story uncovered?</p> <p>23 A. Only a few months ago.</p> <p>24 Q. Who was the reporter that covered</p> <p>25 it?</p>
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<p>1 Gotthelf - CONFIDENTIAL</p> <p>2 A. Kevin Fasick. He is a field</p> <p>3 reporter.</p> <p>4 Q. But you can't recall any good</p> <p>5 enterprise stories from 2008, 2009?</p> <p>6 MR. LERNER: Objection.</p> <p>7 A. It's so long ago. If you have</p> <p>8 newspapers, I can point to them.</p> <p>9 Q. What's your opinion of Austin</p> <p>10 Fenner as a writer?</p> <p>11 A. He was not a strong writer.</p> <p>12 Q. Tell me what you mean by that.</p> <p>13 A. Mr. Fenner, his writing wasn't</p> <p>14 clear, it wasn't focused, there were</p> <p>15 spelling errors. He often couldn't</p> <p>16 determine the news line out of the story,</p> <p>17 couldn't find the right news line out of</p> <p>18 the story. He sometimes, well, often</p> <p>19 actually, didn't fill in all the holes,</p> <p>20 represent all the sides, he wouldn't fact</p> <p>21 check.</p> <p>22 Q. Anything else?</p> <p>23 A. For now that's what I recall.</p> <p>24 Q. Would you say being a good writer</p> <p>25 and a good reporter are the same thing?</p>	<p>1 Gotthelf - CONFIDENTIAL</p> <p>2 A. No.</p> <p>3 Q. In other words is it possible to</p> <p>4 be a good reporter but not be a good</p> <p>5 writer?</p> <p>6 A. Absolutely.</p> <p>7 Q. So my last question was do you</p> <p>8 think he was a good writer. Now I want to</p> <p>9 ask you then, do you think he was a good</p> <p>10 reporter?</p> <p>11 A. I think he was not a good</p> <p>12 reporter, no. No. He was -- if we sent</p> <p>13 him out on a specific task, he would get --</p> <p>14 sometimes he would get what we needed for</p> <p>15 him to get, but overall he was not a good</p> <p>16 reporter. He wasn't finding news lines, he</p> <p>17 wasn't breaking stories, he wasn't</p> <p>18 developing sources, he wasn't thinking</p> <p>19 about following stories he worked on. A</p> <p>20 good reporter will find a good story on</p> <p>21 their way to work. Mr. Fenner wasn't</p> <p>22 thinking that everything could be a story.</p> <p>23 Q. What about Ms. Livingston, would</p> <p>24 you say she was a good writer?</p> <p>25 A. She is not a strong news writer.</p>

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<p>1 Gotthelf - CONFIDENTIAL</p> <p>2 else present at that meeting?</p> <p>3 A. No.</p> <p>4 Q. It was just you and</p> <p>5 Ms. Livingston?</p> <p>6 A. Yes.</p> <p>7 Q. Describe for me what took place</p> <p>8 during that meeting.</p> <p>9 A. I told her I was reassigning her</p> <p>10 from Queens to field reporting because I</p> <p>11 wasn't getting what I wanted out of her in</p> <p>12 that beat.</p> <p>13 Q. What was her response?</p> <p>14 A. She was -- she seemed sad.</p> <p>15 Q. What led you to believe that she</p> <p>16 was sad?</p> <p>17 A. Her facial expression.</p> <p>18 Q. She was sad, disappointed with</p> <p>19 being moved?</p> <p>20 A. Yes, sad, disappointed.</p> <p>21 Q. Did she say anything to you about</p> <p>22 it?</p> <p>23 A. Meaning?</p> <p>24 Q. Did she complain that she thought</p> <p>25 it was unfair or anything like that?</p>	<p>1 Gotthelf - CONFIDENTIAL</p> <p>2 A. No.</p> <p>3 Q. Did she ask you any questions</p> <p>4 about her new assignment?</p> <p>5 A. She -- from what I recall, she</p> <p>6 asked me what her new assignment would be</p> <p>7 and I said it's equally an important job.</p> <p>8 She would be in the street, field reporter.</p> <p>9 Q. Was this a demotion?</p> <p>10 A. No. Absolutely not.</p> <p>11 Q. Why not? Could someone look at</p> <p>12 it as a demotion?</p> <p>13 A. Someone can look at anything as a</p> <p>14 demotion.</p> <p>15 Q. Well, was the Queens courthouse</p> <p>16 reporter a good assignment?</p> <p>17 A. For some, for others, not.</p> <p>18 Q. Are courthouse assignments among</p> <p>19 the people you work with considered</p> <p>20 prestigious?</p> <p>21 MR. LERNER: Objection.</p> <p>22 A. I don't know how people interpret</p> <p>23 them. I would consider maybe some</p> <p>24 prestigious, maybe others not. It's all in</p> <p>25 perception.</p>
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<p>1 Gotthelf - CONFIDENTIAL</p> <p>2 Q. Well, the Queens courthouse</p> <p>3 allowed Ms. Livingston to have a number of</p> <p>4 front page stories, correct?</p> <p>5 A. It allowed her to have a number</p> <p>6 of front page stories?</p> <p>7 Q. You said that she had a number of</p> <p>8 front page stories on the Sean Bell string</p> <p>9 of stories, correct?</p> <p>10 A. She covered a trial while she was</p> <p>11 in Queens Supreme Court that resulted</p> <p>12 in front page stories. I don't think it</p> <p>13 allowed her.</p> <p>14 Q. Well, she was able to have</p> <p>15 numerous front page stories in that</p> <p>16 position as Queens court reporter, correct?</p> <p>17 MR. LERNER: Objection.</p> <p>18 A. She could have numerous front</p> <p>19 page stories in any position at the New</p> <p>20 York Post.</p> <p>21 Q. Is it more likely to have a front</p> <p>22 page story as a courthouse reporter as</p> <p>23 opposed to a beat reporter?</p> <p>24 A. Absolutely not. Absolutely not.</p> <p>25 Q. So you would expect that beat</p>	<p>1 Gotthelf - CONFIDENTIAL</p> <p>2 reporters, if we were to go through and</p> <p>3 look at all the front page bylines, that</p> <p>4 beat reporters would have no less incidence</p> <p>5 of front page bylines than the court</p> <p>6 reporters?</p> <p>7 A. Yes.</p> <p>8 Q. What is the basis for you</p> <p>9 thinking that?</p> <p>10 A. Because I have run the newsroom</p> <p>11 for a significant period of time and I know</p> <p>12 what stories make the front page.</p> <p>13 Q. Has Ms. Livingston had any front</p> <p>14 page stories since she was taken off the</p> <p>15 Queens reporter job?</p> <p>16 A. I don't believe so, but that's on</p> <p>17 her as a reporter that she hasn't developed</p> <p>18 a front page story.</p> <p>19 Q. Okay, so is she a better or a</p> <p>20 worse reporter now than she was when she</p> <p>21 was working Queens?</p> <p>22 A. I think she's doing better as a</p> <p>23 field reporter.</p> <p>24 Q. So she's improved as a reporter</p> <p>25 since being on the Queens courthouse?</p>

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<p>1 Gotthelf - CONFIDENTIAL</p> <p>2 MR. LERNER: Objection.</p> <p>3 A. I'm sorry, I was being flip, that</p> <p>4 I would be spending my entire day writing</p> <p>5 people up for cursing and yelling and not</p> <p>6 being able to put out a newspaper. I'm</p> <p>7 sorry, that was me being flip.</p> <p>8 Q. That's fine. So when you finally</p> <p>9 fired Mr. Haberman, you said it was for two</p> <p>10 reasons, that he missed a story and he had</p> <p>11 been shouting at people, but in a</p> <p>12 non-abusive way, correct?</p> <p>13 A. He had been shouting at people</p> <p>14 and it became a distraction.</p> <p>15 Q. If you had to assign values for</p> <p>16 each of those two reasons, in other words</p> <p>17 was it 50/50 percent, or 90/10?</p> <p>18 MR. LERNER: Objection. Go</p> <p>19 ahead.</p> <p>20 A. The news story was the straw that</p> <p>21 broke the camel's back.</p> <p>22 Q. So what's the percentage?</p> <p>23 MR. LERNER: Objection.</p> <p>24 A. I can't determine a percentage.</p> <p>25 Q. Well, give me a percentage.</p>	<p>1 Gotthelf - CONFIDENTIAL</p> <p>2 MR. LERNER: Objection.</p> <p>3 A. How am I going to determine a</p> <p>4 percentage?</p> <p>5 Q. Why not?</p> <p>6 MR. LERNER: Objection.</p> <p>7 A. As I said, the news story was the</p> <p>8 straw that broke the camel's back, meaning</p> <p>9 it was at the point where Zach -- I</p> <p>10 couldn't work with Zach any more.</p> <p>11 Q. So if Zach had not missed this</p> <p>12 news story, he might still be working there</p> <p>13 today?</p> <p>14 MR. LERNER: Objection.</p> <p>15 A. No.</p> <p>16 Q. Why do you say that?</p> <p>17 A. Because I would have fired him</p> <p>18 anyway, just because I couldn't work with</p> <p>19 him any more.</p> <p>20 Q. I want to direct your attention,</p> <p>21 again, this is on 831. It says, Michelle</p> <p>22 stated that there were several</p> <p>23 months between the time Kim was moved and</p> <p>24 when Billa Rota was placed into the</p> <p>25 position. Do you see that?</p>
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<p>1 Gotthelf - CONFIDENTIAL</p> <p>2 A. I do.</p> <p>3 Q. Okay, would you agree that Billy</p> <p>4 Rota is supposed to Billy Gorta?</p> <p>5 A. Yes. This thing is filled with</p> <p>6 errors, yes.</p> <p>7 Q. Other than that, is that a</p> <p>8 correct statement of what you discussed</p> <p>9 with Ms. Kelly and Ms. Jehn at the meeting?</p> <p>10 MR. LERNER: Objection.</p> <p>11 Q. In other words did you tell them</p> <p>12 that there were several months between the</p> <p>13 time Kim was moved and when Billy Gorta was</p> <p>14 placed in the position?</p> <p>15 MR. LERNER: Objection.</p> <p>16 A. No.</p> <p>17 Q. You did not tell them that?</p> <p>18 A. There wasn't several months.</p> <p>19 Q. Okay, so when was Kim relieved?</p> <p>20 A. Kim was reassigned in early</p> <p>21 November of 2008.</p> <p>22 Q. And when did Billy Gorta take</p> <p>23 over?</p> <p>24 A. Early December of 2008.</p> <p>25 Q. Okay. And the next sentence, you</p>	<p>1 Gotthelf - CONFIDENTIAL</p> <p>2 see it says when Michelle moved Kim she did</p> <p>3 not have a permanent plan and just had</p> <p>4 temporary people in the role for a while.</p> <p>5 Do you see that?</p> <p>6 A. Yes.</p> <p>7 Q. Is that an accurate statement?</p> <p>8 A. Part of it is. I did not have a</p> <p>9 permanent plan and I was going to put</p> <p>10 temporary people in there.</p> <p>11 Q. So you told Ms. Kelly and</p> <p>12 Ms. Jehn that you did not have a permanent</p> <p>13 plan and you were going to put temporary</p> <p>14 people in there?</p> <p>15 A. Yes, I was going to try people</p> <p>16 out in that position to see how it worked</p> <p>17 out.</p> <p>18 Q. When Ms. Livingston was taken off</p> <p>19 the courthouse beat you did not know who</p> <p>20 was going to take over for her?</p> <p>21 A. Absolutely not.</p> <p>22 Q. Is it important to have personal</p> <p>23 connections on a news beat?</p> <p>24 A. Sure. Absolutely.</p> <p>25 Q. Why?</p>

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<p>1 Gotthelf - CONFIDENTIAL</p> <p>2 A. To develop story ideas, develop</p> <p>3 confidence in people. I mean, sure.</p> <p>4 Q. Do you think that a person who</p> <p>5 was simply temporarily in the job would</p> <p>6 have a good opportunity to develop those</p> <p>7 sorts of sources?</p> <p>8 A. Eventually. It also depends on</p> <p>9 how good the person is.</p> <p>10 Q. You say eventually, so in other</p> <p>11 words it takes time to develop that, right?</p> <p>12 A. Sure, or a really good reporter</p> <p>13 can develop it immediately. It all</p> <p>14 depends.</p> <p>15 Q. But did you have a really good</p> <p>16 reporter in mind to take over from</p> <p>17 Ms. Livingston when she was taken off?</p> <p>18 A. I did not. I eventually put a</p> <p>19 very good reporter in there, but at this</p> <p>20 time I was wondering what I was go to do</p> <p>21 with it.</p> <p>22 Q. So why would you remove her when</p> <p>23 you didn't have someone to replace her</p> <p>24 immediately?</p> <p>25 MR. LERNER: Objection. Go</p>	<p>1 Gotthelf - CONFIDENTIAL</p> <p>2 ahead.</p> <p>3 A. Because she wasn't doing well at</p> <p>4 it. I've overseen courts at the New York</p> <p>5 Post for 11 years. I have had a number of</p> <p>6 reporters in Queens court. Ms. Livingston</p> <p>7 was not doing a great job at Queens court.</p> <p>8 I was figuring out what my next step was.</p> <p>9 It's my job. I reassign people.</p> <p>10 Q. Did Ms. Livingston know people at</p> <p>11 the Queens courthouse?</p> <p>12 MR. LERNER: Objection.</p> <p>13 A. I would assume she did, since she</p> <p>14 was based in the Queens courthouse.</p> <p>15 Q. But you don't know for certain?</p> <p>16 A. No, you don't know for certain.</p> <p>17 Q. All right, let me direct your</p> <p>18 attention to the next paragraph. It's the</p> <p>19 paragraph beginning Michelle stated that</p> <p>20 there are other runner reporters who don't</p> <p>21 have desks or phones because there are not</p> <p>22 enough for everyone. Do you see that?</p> <p>23 A. Yes.</p> <p>24 Q. Is that accurate, what you said</p> <p>25 to Ms. Kelly and Ms. Jehn?</p>
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<p>1 Gotthelf - CONFIDENTIAL</p> <p>2 MR. LERNER: Objection.</p> <p>3 A. I said from what I recall two</p> <p>4 things. There are not enough for everyone</p> <p>5 and field reporters, runner reporters don't</p> <p>6 have assigned desks. Ms. Livingston can</p> <p>7 come into the office and use a desk</p> <p>8 whenever she needs to use a desk. It's</p> <p>9 desk assignment -- there's only a number of</p> <p>10 them.</p> <p>11 Q. Okay, but did you tell Ms. Kelly</p> <p>12 and Ms. Jehn that you don't have, quote,</p> <p>13 have desks or phones?</p> <p>14 MR. LERNER: Objection.</p> <p>15 A. I'm sorry, say that again?</p> <p>16 Q. Is this correct, it says here,</p> <p>17 Michelle stated that there are other runner</p> <p>18 reporters who don't have desks and phones</p> <p>19 because there are not enough for everyone.</p> <p>20 Did you tell them that you did not have</p> <p>21 enough desks or phones for all of your</p> <p>22 runner reporters?</p> <p>23 A. I'm sure that was one. I may</p> <p>24 have.</p> <p>25 Q. You may have, but you're not</p>	<p>1 Gotthelf - CONFIDENTIAL</p> <p>2 sure?</p> <p>3 A. I'm not sure. Yeah, I'm not</p> <p>4 sure.</p> <p>5 Q. The bottom sentence says Michelle</p> <p>6 said Kim never asked for a phone number at</p> <p>7 the office. If she had it would have been</p> <p>8 an easy request because you can have a</p> <p>9 phone number without being assigned a</p> <p>10 phone. Do you see that?</p> <p>11 A. Sure.</p> <p>12 Q. So was the issue that she didn't</p> <p>13 have a phone or that she did not have a</p> <p>14 phone number?</p> <p>15 MR. LERNER: Objection.</p> <p>16 A. I only remember an issue about a</p> <p>17 desk.</p> <p>18 Q. Okay, did Kim ever ask you -- and</p> <p>19 again, this is going back to your meeting</p> <p>20 with Ms. Livingston. Did Kim ever ask you</p> <p>21 for a desk at that meeting where you told</p> <p>22 her she was being taken off the Queens</p> <p>23 courthouse?</p> <p>24 A. No, she asked me to see if she</p> <p>25 can get a desk. I don't remember a phone.</p>

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<p>1 Gotthelf - CONFIDENTIAL</p> <p>2 Q. Okay, so you do recall she asked</p> <p>3 you if she could have a desk?</p> <p>4 A. Yes, I do.</p> <p>5 Q. And what was your response?</p> <p>6 A. I'll look into it. So then I</p> <p>7 soon realized that she's in the field,</p> <p>8 there is no need to have a desk. She's not</p> <p>9 writing in the office every day. She has</p> <p>10 exactly what everybody else in her position</p> <p>11 has. And she also can use a desk any time</p> <p>12 she needs to use a desk. So I don't</p> <p>13 understand the issue.</p> <p>14 Q. You don't understand why</p> <p>15 Ms. Livingston might want to have her own</p> <p>16 desk?</p> <p>17 MR. LERNER: Objection.</p> <p>18 A. No, no, I don't actually, I</p> <p>19 don't. Plenty of people, field reporters</p> <p>20 want to be out on the street and never see</p> <p>21 the inside of the newsroom.</p> <p>22 Q. And what about the phone number?</p> <p>23 A. Ms. Livingston didn't ask me for</p> <p>24 a phone number. She has a cell phone. We</p> <p>25 pay two thirds of it.</p>	<p>1 Gotthelf - CONFIDENTIAL</p> <p>2 Q. And if you look at last sentence</p> <p>3 there, it says Michelle would have been</p> <p>4 happy to get that for her.</p> <p>5 A. Yes.</p> <p>6 Q. That meaning a phone?</p> <p>7 A. A phone number, not an actual</p> <p>8 physical phone, but a voice-mail.</p> <p>9 Q. Does Ms. Livingston have a phone</p> <p>10 number at Post today?</p> <p>11 A. I don't believe so. She uses her</p> <p>12 cell phone, of which the company pays two</p> <p>13 thirds.</p> <p>14 Q. So is it your position that</p> <p>15 Ms. Livingston does not need an assigned</p> <p>16 phone number at the company?</p> <p>17 A. At the office, she does not need</p> <p>18 an assigned phone number at the office, no.</p> <p>19 Q. And is it your position that she</p> <p>20 has never requested to have an assigned</p> <p>21 phone number at the office?</p> <p>22 A. I don't recall her requesting to</p> <p>23 have an assigned phone at the office.</p> <p>24 Q. After you had this meeting with</p> <p>25 Ms. Kelly and Ms. Jehn, was it your</p>
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<p>1 Gotthelf - CONFIDENTIAL</p> <p>2 understanding that Kim was complaining that</p> <p>3 she didn't have an assigned phone number at</p> <p>4 the paper?</p> <p>5 A. I didn't take that from this</p> <p>6 meeting, but I'm not responsible for</p> <p>7 assigning people phones. We have an</p> <p>8 administrative editor. Ms. Livingston has</p> <p>9 been working at the New York Post for</p> <p>10 15 years. She knows that. Go to the</p> <p>11 administrative editor and see if you can</p> <p>12 get a voice-mail.</p> <p>13 Q. So at any time after this meeting</p> <p>14 did you ever go to Ms. Livingston and ask</p> <p>15 her would you like a phone number at the</p> <p>16 company?</p> <p>17 A. I don't recall.</p> <p>18 Q. So your testimony is you might</p> <p>19 have gone and asked her, but you don't</p> <p>20 recall?</p> <p>21 A. I might have, I don't recall.</p> <p>22 Q. But you have no recollection of</p> <p>23 any conversation in which you discussed a</p> <p>24 phone with Ms. Livingston?</p> <p>25 A. I don't recall. I remember the</p>	<p>1 Gotthelf - CONFIDENTIAL</p> <p>2 desk, I don't recall the phone.</p> <p>3 Q. It says here in the middle of the</p> <p>4 paragraph, Michelle doesn't remember if she</p> <p>5 offered Kim a desk or not.</p> <p>6 A. Yes.</p> <p>7 Q. Did you tell Ms. Kelly and</p> <p>8 Ms. Jehn that you don't remember if she</p> <p>9 offered Kim a desk or not?</p> <p>10 A. Well, actually I said to them I</p> <p>11 would look into it. I don't remember if I</p> <p>12 said yes or no. I remember saying I would</p> <p>13 look into it. That's what HR took from it.</p> <p>14 She doesn't remember yes or no. I said I'd</p> <p>15 look into it and then realized that A,</p> <p>16 there is only a finite number of desks in</p> <p>17 the newsroom and they're for rewrite,</p> <p>18 people who are assigned to come in and get</p> <p>19 a desk for rewrite. Ms. Livingston can</p> <p>20 come in and use a desk, she just, much like</p> <p>21 everyone else in her position, won't have</p> <p>22 one assigned to her.</p> <p>23 Q. Was Ms. Livingston ever told she</p> <p>24 needed permission to come into the</p> <p>25 newsroom?</p>

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<p>1 Gotthelf - CONFIDENTIAL</p> <p>2 exhibit Gotthelf 12. Could you just take a</p> <p>3 quick look at this, and this is Bates</p> <p>4 stamped NYP-FL 609.</p> <p>5 (Gotthelf Exhibit 12, NYP-FL 609,</p> <p>6 marked for identification.)</p> <p>7 What is this document?</p> <p>8 A. This is a story pitch from</p> <p>9 Mr. Austin Fenner.</p> <p>10 Q. And what is the date on it?</p> <p>11 A. This is September 22, 2008.</p> <p>12 Q. And could you just read what you</p> <p>13 have in the text here?</p> <p>14 A. That's a good story. Can you say</p> <p>15 urban renewal? I want more.</p> <p>16 Q. Okay, so was this a good story</p> <p>17 idea that Austin was pitching?</p> <p>18 A. If it didn't appear word for word</p> <p>19 in the New York Times, it would have been.</p> <p>20 Q. What do you mean it appeared word</p> <p>21 for word in the New York Times?</p> <p>22 A. This is a New York Times -- a</p> <p>23 story that he pitched that had previously</p> <p>24 appeared with all of this information in</p> <p>25 the New York Times.</p>	<p>1 Gotthelf - CONFIDENTIAL</p> <p>2 Q. Okay, so it didn't appear word</p> <p>3 for word in the New York Times?</p> <p>4 A. No, it did not. Every piece of</p> <p>5 viable information that is in this line</p> <p>6 appeared in the New York Times.</p> <p>7 Q. And when did it appear in the New</p> <p>8 York Times?</p> <p>9 A. Only a few weeks before -- or I'm</p> <p>10 sorry -- yes, I believe a few weeks before,</p> <p>11 I believe.</p> <p>12 Q. You don't know for certain?</p> <p>13 A. I don't know for certain.</p> <p>14 Q. Could it have been a year before?</p> <p>15 A. Yes, it could have been five</p> <p>16 years before, but he didn't do a clip</p> <p>17 search at the library to determine that</p> <p>18 these facts were not new.</p> <p>19 Q. Does the Post ever run followup</p> <p>20 stories on stories that appeared in other</p> <p>21 papers?</p> <p>22 A. Yes, but they would have to have</p> <p>23 a new angle.</p> <p>24 Q. Okay, how do you know --</p> <p>25 A. I'm sorry, the fact that a new</p>
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<p>1 Gotthelf - CONFIDENTIAL</p> <p>2 car dealership was opening its doors in</p> <p>3 Harlem had appeared in the New York Times.</p> <p>4 That was the story he was pitching.</p> <p>5 Q. How do you know he didn't have a</p> <p>6 new angle on it?</p> <p>7 A. Because I have follow up e-mails</p> <p>8 with him where he didn't have a new angle.</p> <p>9 This is one in a chain of many, of several.</p> <p>10 Q. So you don't believe there could</p> <p>11 be a new angle on the Lamborghini</p> <p>12 dealership in Harlem?</p> <p>13 MR. LERNER: Objection.</p> <p>14 A. Yes, there could have been a new</p> <p>15 angle and he should have worked on it and</p> <p>16 pitched it to me instead of pitching me an</p> <p>17 old story.</p> <p>18 Q. I'm going to mark the next</p> <p>19 exhibit Gotthelf 13.</p> <p>20 (Gotthelf Exhibit 13, NYP-FL</p> <p>21 2277, marked for identification.)</p> <p>22 And what is this, ma'am?</p> <p>23 A. This is a story pitch from</p> <p>24 Mr. Austin Fenner.</p> <p>25 Q. And what is the date on it?</p>	<p>1 Gotthelf - CONFIDENTIAL</p> <p>2 A. November 20, 2008.</p> <p>3 Q. And can you read what you wrote</p> <p>4 in your text of your e-mail?</p> <p>5 A. Sure. I wrote I really like this</p> <p>6 one.</p> <p>7 Q. Okay, was this a good story that</p> <p>8 Mr. Fenner pitched?</p> <p>9 A. On the surface, yes.</p> <p>10 Q. Marking Gotthelf 14, if you could</p> <p>11 take a look at that, please.</p> <p>12 A. Certainly.</p> <p>13 (Gotthelf Exhibit 14, NYP-FL</p> <p>14 2276, marked for identification.)</p> <p>15 Q. For the record, this is NYP-FL</p> <p>16 2276. And can you tell me what this is?</p> <p>17 A. This is an e-mail correspondence</p> <p>18 between me and one of my rewrite reporters,</p> <p>19 Lucas Alpert.</p> <p>20 Q. And can you read what you have</p> <p>21 written there.</p> <p>22 A. Also Austin Fenner has an</p> <p>23 extensive interview with the whistleblower.</p> <p>24 Please give him a call. We sent Schilling</p> <p>25 to the mansion on the -- and UWS means</p>

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<p>1 Gotthelf - CONFIDENTIAL</p> <p>2 recall. I don't recall.</p> <p>3 Q. But you don't recall that Austin</p> <p>4 ever complaining about Dan's treatment of</p> <p>5 him?</p> <p>6 A. Oh, I don't recall.</p> <p>7 Q. If you look at the third article</p> <p>8 called Red Cross Mama, and this is marked</p> <p>9 AF 129. Okay, do you remember this story?</p> <p>10 A. I do.</p> <p>11 Q. Was this a good story?</p> <p>12 A. This was not a good story.</p> <p>13 Q. Why do you say that?</p> <p>14 A. Mr. Fenner was sent to</p> <p>15 Mississippi to -- this existing story was</p> <p>16 out in the press. Nothing exclusive was</p> <p>17 broken on it. And he -- the first quote in</p> <p>18 the story is him speaking to -- about the</p> <p>19 affairs of an anchorwoman. This was not</p> <p>20 one of his -- this was not a good effort.</p> <p>21 Q. Is one of your reporters being</p> <p>22 attacked or threatened by a guy with an axe</p> <p>23 handle? Is that the kind of story that the</p> <p>24 paper likes to run?</p> <p>25 MR. LERNER: Objection.</p>	<p>1 Gotthelf - CONFIDENTIAL</p> <p>2 A. No, we would prefer all of our</p> <p>3 reporters are safe.</p> <p>4 Q. So why did you run this story</p> <p>5 then?</p> <p>6 MR. LERNER: Objection.</p> <p>7 A. This was an ongoing news story.</p> <p>8 Q. Austin Fenner being attacked by a</p> <p>9 guy with an axe handle was an ongoing news</p> <p>10 story?</p> <p>11 MR. LERNER: Objection.</p> <p>12 A. I'm sorry, may I direct your</p> <p>13 attention to the cut line, that's what this</p> <p>14 is, the cut line, a man armed with an axe</p> <p>15 handle shoos away a Post reporter. Shoos</p> <p>16 away, attacked, sounds very different to</p> <p>17 me.</p> <p>18 Q. Well, who made the decision to</p> <p>19 put this photograph of a guy with an axe</p> <p>20 handle and Austin Fenner?</p> <p>21 MR. LERNER: Objection, if you</p> <p>22 know.</p> <p>23 A. One of the photo editors.</p> <p>24 Q. And why do you think they put</p> <p>25 this photograph of Austin Fenner and a guy</p>
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<p>1 Gotthelf - CONFIDENTIAL</p> <p>2 with an axe handle?</p> <p>3 MR. LERNER: Objection.</p> <p>4 A. It's a good photo. It's</p> <p>5 dramatic.</p> <p>6 Q. It's a dramatic photo but it's</p> <p>7 not a good story?</p> <p>8 MR. LERNER: Objection.</p> <p>9 A. The story is not about Austin</p> <p>10 Fenner getting shoos away, it's about this</p> <p>11 woman who is pregnant.</p> <p>12 Q. So why do you have the picture at</p> <p>13 all then?</p> <p>14 MR. LERNER: Objection. She</p> <p>15 testified she didn't put the picture.</p> <p>16 A. It's a good picture.</p> <p>17 Q. If you could look at the next</p> <p>18 page, the part that's marked AF135.</p> <p>19 A. Yes.</p> <p>20 Q. And actually a quick step back.</p> <p>21 In the Red Cross story Austin was sent to</p> <p>22 Mississippi, is that right?</p> <p>23 A. Yes.</p> <p>24 Q. Is this a national story?</p> <p>25 A. Yes.</p>	<p>1 Gotthelf - CONFIDENTIAL</p> <p>2 Q. Why did you send Austin on this</p> <p>3 national story?</p> <p>4 A. Mr. Fenner got a lot of good</p> <p>5 assignments.</p> <p>6 Q. Why did you give him a lot of</p> <p>7 good assignments?</p> <p>8 A. Because he was a highly</p> <p>9 compensated reporter and he was expected to</p> <p>10 produce on these assignments.</p> <p>11 Q. Were these important assignments?</p> <p>12 A. He was put on some important</p> <p>13 assignments, yes. Every opportunity to</p> <p>14 succeed.</p> <p>15 Q. So you're telling me then that</p> <p>16 you had a reporter who was not a good</p> <p>17 reporter but was sent on important national</p> <p>18 assignments?</p> <p>19 A. He wasn't pitching stories, his</p> <p>20 writing wasn't -- was pretty poor, he --</p> <p>21 yes. I needed to assign him to something,</p> <p>22 so he went out on stories.</p> <p>23 Q. On important national stories?</p> <p>24 A. Sure. Every opportunity to</p> <p>25 succeed.</p>

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<p>1 Gotthelf - CONFIDENTIAL</p> <p>2 A. Because he was the, basically the</p> <p>3 last person in the newsroom who wasn't</p> <p>4 doing any writing because he wasn't a very</p> <p>5 good writer that I had to send out to the</p> <p>6 scene.</p> <p>7 Q. So you had 15 different people</p> <p>8 you sent?</p> <p>9 A. I did. We sent -- it was all</p> <p>10 hands on deck that day.</p> <p>11 Q. Did all 15 of them have stories</p> <p>12 that made it into the paper about that</p> <p>13 Miracle on the Hudson?</p> <p>14 A. All 15 contributed to the stories</p> <p>15 that were in the paper that day, yes.</p> <p>16 Q. Did Austin have a byline on those</p> <p>17 stories?</p> <p>18 A. He may have.</p> <p>19 Q. Did all 15 have bylines?</p> <p>20 A. It was a significant story, so</p> <p>21 I'd have to look at the clip to see who had</p> <p>22 what.</p> <p>23 Q. But you don't know if all 15 had</p> <p>24 bylines?</p> <p>25 A. I don't know.</p>	<p>1 Gotthelf - CONFIDENTIAL</p> <p>2 Q. Do you remember a story about</p> <p>3 Obama's church in Chicago and a controversy</p> <p>4 with the pastor of the church?</p> <p>5 A. I do.</p> <p>6 Q. Was that a national story?</p> <p>7 A. It was a national story.</p> <p>8 Q. Was it an important story?</p> <p>9 MR. LERNER: Objection.</p> <p>10 A. It was an important story.</p> <p>11 Q. Was Mr. Fenner dispatched to work</p> <p>12 on that story?</p> <p>13 A. Mr. Fenner was dispatched to work</p> <p>14 on that story and he failed at the</p> <p>15 assignment.</p> <p>16 Q. Move to strike the second half of</p> <p>17 that answer. That was non-responsive.</p> <p>18 Were you the one who dispatched him to the</p> <p>19 story?</p> <p>20 A. I don't recall.</p> <p>21 Q. So you have no recollection of</p> <p>22 how Mr. Fenner ended up assigned to that</p> <p>23 story?</p> <p>24 A. I know he was assigned -- well,</p> <p>25 he was working with the political editor on</p>
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<p>1 Gotthelf - CONFIDENTIAL</p> <p>2 the story.</p> <p>3 Q. So the political editor may have</p> <p>4 assigned it?</p> <p>5 MR. LERNER: Objection.</p> <p>6 A. Yes, but since Austin reported to</p> <p>7 me, I may have told the political editor to</p> <p>8 use Mr. Fenner for the assignment.</p> <p>9 Q. Who was the political editor?</p> <p>10 A. Greg Birnbaum.</p> <p>11 Q. What was Mr. Birnbaum's opinion</p> <p>12 of Mr. Fenner?</p> <p>13 A. On one occasion on that story he</p> <p>14 was livid that Mr. Fenner didn't do a good</p> <p>15 job on that story.</p> <p>16 Q. He was livid? Why was he livid?</p> <p>17 A. Because Mr. Fenner was dispatched</p> <p>18 to -- to break a story on the Reverend</p> <p>19 Wright, on his financials, on his friends,</p> <p>20 and Mr. Fenner merely went to a church and</p> <p>21 talked to some of the congregants about</p> <p>22 Mr. Wright and Greg was very upset about</p> <p>23 it.</p> <p>24 Q. And what was Mr. Fenner expected</p> <p>25 to do?</p>	<p>1 Gotthelf - CONFIDENTIAL</p> <p>2 A. He spent three days in Chicago,</p> <p>3 he was expected to break an investigative</p> <p>4 news line on that story because that's what</p> <p>5 he was hired to do. He's highly</p> <p>6 compensated, he's hired to go out and break</p> <p>7 an investigative news story.</p> <p>8 Q. Did you have any confidence in</p> <p>9 Mr. Fenner to break an investigative news</p> <p>10 story when you sent him on this story?</p> <p>11 MR. LERNER: Objection.</p> <p>12 A. Mr. Fenner was highly</p> <p>13 compensated. He came to the New York Post</p> <p>14 with a lot of experience. He would often</p> <p>15 claim that he could break investigative</p> <p>16 stories and he could tease lines out of</p> <p>17 stories, so yes, I gave him an assignment</p> <p>18 in hopes that he would break a line.</p> <p>19 Q. Did you have confidence that he</p> <p>20 would be able to break a line?</p> <p>21 MR. LERNER: Objection.</p> <p>22 A. I hoped he would.</p> <p>23 Q. That's not the question. You</p> <p>24 said in reference to other stories that you</p> <p>25 sent him on important national stories even</p>

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<p>1 Gotthelf - CONFIDENTIAL</p> <p>2 though you thought he was a poor reporter,</p> <p>3 right?</p> <p>4 A. Yes, I gave him every</p> <p>5 opportunity, yes.</p> <p>6 Q. So are you saying that again with</p> <p>7 the incidence of the Reverend Wright and</p> <p>8 Obama's church, it was an important</p> <p>9 national story, but you sent Mr. Fenner</p> <p>10 even though you thought he was a poor</p> <p>11 reporter?</p> <p>12 MR. LERNER: Objection.</p> <p>13 Q. Is that what your testimony is?</p> <p>14 A. No, I sent a highly</p> <p>15 compensated -- I'm sorry --</p> <p>16 Q. Finish your answer, but I'm going</p> <p>17 to move to strike as soon as you're done.</p> <p>18 That's not the question.</p> <p>19 MR. LERNER: She needs to finish</p> <p>20 her answer. Go ahead.</p> <p>21 A. I sent a highly compensated</p> <p>22 reporter with many years of news experience</p> <p>23 who came to the New York Post claiming to</p> <p>24 have sources and investigative skills and</p> <p>25 writing abilities to high profile</p>	<p>1 Gotthelf - CONFIDENTIAL</p> <p>2 assignments in hopes that he would break</p> <p>3 stories out of them. So yes, I was hopeful</p> <p>4 that Mr. Fenner would break a news line out</p> <p>5 of this story.</p> <p>6 Q. Okay, move to strike. That's not</p> <p>7 the question. The question is, did you</p> <p>8 send him on these important national</p> <p>9 stories even though you believed he was a</p> <p>10 poor reporter?</p> <p>11 MR. LERNER: Objection.</p> <p>12 A. Yes, but I didn't always believe</p> <p>13 he was a poor reporter. I was giving him</p> <p>14 every available opportunity to prove to us</p> <p>15 that he was a good reporter.</p> <p>16 Q. When you sent him on this story</p> <p>17 to cover the Reverend Wright, did you think</p> <p>18 he was a good reporter or a bad reporter?</p> <p>19 A. I don't recall the time frame, so</p> <p>20 I don't know.</p> <p>21 Q. And what about the Dolan story</p> <p>22 that we showed you a few minutes ago? Do</p> <p>23 you still have that in front of you?</p> <p>24 A. I do.</p> <p>25 Q. What was the date on that? Do</p>
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<p>1 Gotthelf - CONFIDENTIAL</p> <p>2 you see it's February, 2009?</p> <p>3 A. Yes. Hang on.</p> <p>4 Q. By February of 2009 when he did</p> <p>5 these two stories we referred to earlier,</p> <p>6 did you think he was a good reporter or a</p> <p>7 bad reporter?</p> <p>8 MR. LERNER: Objection.</p> <p>9 A. I thought at this point that -- I</p> <p>10 don't recall at the time. I don't.</p> <p>11 Q. So when did you come to the</p> <p>12 conclusion that he was a bad reporter?</p> <p>13 A. It took -- you give someone every</p> <p>14 opportunity to do what they're hired to do,</p> <p>15 and over time when there's no consistency</p> <p>16 to his good assignments, you realize</p> <p>17 they're not very good. But to be a good</p> <p>18 boss, I had to give him every opportunity.</p> <p>19 I wanted to give him every opportunity to</p> <p>20 shine.</p> <p>21 Q. Okay. So the question was did</p> <p>22 you think he was a good reporter or a bad</p> <p>23 reporter in February when you sent him on</p> <p>24 this assignment? So when did you determine</p> <p>25 he was a bad reporter?</p>	<p>1 Gotthelf - CONFIDENTIAL</p> <p>2 MR. LERNER: Objection.</p> <p>3 A. I don't recall. I do want to add</p> <p>4 something. He had gotten performance</p> <p>5 warnings on his lack of writing abilities</p> <p>6 and story pitches before this assignment.</p> <p>7 MR. LERNER: Indicating</p> <p>8 Exhibit 16.</p> <p>9 A. Well, he wasn't working out. He</p> <p>10 wasn't doing a great job, dating back to</p> <p>11 early 2008. I mean, along the way he got</p> <p>12 the opportunities, he didn't do well at</p> <p>13 them. He was highly compensated. He said</p> <p>14 he had the skills to produce good stories,</p> <p>15 and he wasn't, and it was -- it was</p> <p>16 probably a few months into my position that</p> <p>17 I really -- we gave him enough assignments</p> <p>18 to determine that he was not very good.</p> <p>19 Q. So a few months into his</p> <p>20 employment you decided he was not very</p> <p>21 good, is that what you're saying?</p> <p>22 A. No, I didn't say that. I said a</p> <p>23 few months into my job as metropolitan</p> <p>24 editor.</p> <p>25 Q. Okay, so what time are we talking</p>

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<p>1 Gotthelf - CONFIDENTIAL</p> <p>2 about then? Can you give me a month and a</p> <p>3 year?</p> <p>4 A. We're talking definitely by his</p> <p>5 APA in 2008, he got a final performance --</p> <p>6 a final warning in his APA that he was</p> <p>7 failing at the job and that he needed to</p> <p>8 step it up.</p> <p>9 Q. But you sent him to Chicago</p> <p>10 anyway on an important national story?</p> <p>11 A. I did, because at this point</p> <p>12 Mr. Fenner could no longer write. He is</p> <p>13 not a strong writer. He wasn't pitching</p> <p>14 story ideas. He wasn't discerning news</p> <p>15 lines on story ideas, and I had an idea of</p> <p>16 something I wanted, so I sent him.</p> <p>17 Q. Well, actually you said he did an</p> <p>18 excellent job on that Cardinal Dolan --</p> <p>19 A. He did, he did.</p> <p>20 Q. I'm going to provide you what's</p> <p>21 marked Gotthelf 17, if you can take a look</p> <p>22 at that, please.</p> <p>23 A. Sure.</p> <p>24 (Gotthelf Exhibit 17, NYP-FL</p> <p>25 774-775 and attachments, marked for</p>	<p>1 Gotthelf - CONFIDENTIAL</p> <p>2 identification.)</p> <p>3 Are you ready?</p> <p>4 A. No, I'm sorry, I'd like to read</p> <p>5 this.</p> <p>6 Q. Go ahead. Let's start at the</p> <p>7 back, because these are in order. For the</p> <p>8 record this is NYP-FL 2269 and 2270. What</p> <p>9 are these two pages, ma'am?</p> <p>10 A. This is e-mail correspondence</p> <p>11 between me and my political editor Greg</p> <p>12 Birnbaum.</p> <p>13 Q. And if you could look at the very</p> <p>14 last one, the one dated 9/29/2008,</p> <p>15 1:28 p.m., could you read what that says</p> <p>16 for me.</p> <p>17 A. Col is understandably upset that</p> <p>18 the story he had requested that we sent</p> <p>19 Austin to do in Chicago was hacked and run</p> <p>20 downpage as six graphs. Frank was aware</p> <p>21 that this was a Col project. I have been</p> <p>22 yelled at about this so I have to let the</p> <p>23 boss know exactly what happened. Why Frank</p> <p>24 would make a Col story that we go all the</p> <p>25 way to Chicago to do a downpage brief is</p>
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<p>1 Gotthelf - CONFIDENTIAL</p> <p>2 beyond me. He did the same thing last</p> <p>3 week. I have sent Col an e-mail explaining</p> <p>4 why his stories are getting treated like</p> <p>5 shit. In any event, Col wants to go back</p> <p>6 to Chicago to work on the story about</p> <p>7 Obama's pork rant being investigated by the</p> <p>8 AG. Who can go besides Austin?</p> <p>9 Q. Okay, so what does it mean that</p> <p>10 the story was hacked and run downpage as</p> <p>11 six graphs?</p> <p>12 A. That means the editor on the news</p> <p>13 desk cut the story, made it shorter.</p> <p>14 Q. And it was run downpage even</p> <p>15 though Col wanted it to be a bigger</p> <p>16 priority?</p> <p>17 MR. LERNER: Objection.</p> <p>18 A. According to this e-mail.</p> <p>19 Q. Well, other than the e-mail, do</p> <p>20 you recall whether Col had thought this was</p> <p>21 an important story?</p> <p>22 A. I don't.</p> <p>23 Q. Okay. Can you look at -- if you</p> <p>24 go up two and look at the one that's marked</p> <p>25 1:31 p.m. that same day, can you read that?</p>	<p>1 Gotthelf - CONFIDENTIAL</p> <p>2 A. Just from to report?</p> <p>3 Q. Yes.</p> <p>4 A. Now Col has asked me why we sent</p> <p>5 Austin when he says you are trying to fire</p> <p>6 him. If we don't send someone who he</p> <p>7 respects, we might as well not send anyone.</p> <p>8 Q. Do you agree with that?</p> <p>9 A. I'm sorry?</p> <p>10 Q. Okay, let's break it up. Were</p> <p>11 you trying to fire Austin in September of</p> <p>12 2008?</p> <p>13 A. I was not.</p> <p>14 Q. Do you have any idea why Greg</p> <p>15 Birnbaum was under the impression that you</p> <p>16 were trying to fire him?</p> <p>17 MR. LERNER: Objection to form.</p> <p>18 A. I gave Mr. Fenner a performance</p> <p>19 warning at that point.</p> <p>20 Q. Did you respond to Mr. Birnbaum</p> <p>21 and say no, you have it all wrong, I'm not</p> <p>22 trying to fire Austin?</p> <p>23 A. That wasn't the issue here. The</p> <p>24 issue was the story, not Mr. Birnbaum's</p> <p>25 dealing with, you know, interpretations of</p>

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<p>1 Gotthelf - CONFIDENTIAL</p> <p>2 A. Yes.</p> <p>3 Q. Could you read your e-mail to</p> <p>4 Jessie dated 4:24 p.m.</p> <p>5 A. Yes. Nichole Bodie is better,</p> <p>6 but people like Austin, he's apparently</p> <p>7 very sneaky, plus always good to hire an</p> <p>8 African-American.</p> <p>9 Q. What did you mean apparently he's</p> <p>10 very sneaky?</p> <p>11 A. I was told that Mr. Fenner was a</p> <p>12 very sneaky reporter which made me very</p> <p>13 happy. That is a -- sneaky reporters are</p> <p>14 great reporters.</p> <p>15 Q. And what does sneaky mean in this</p> <p>16 context?</p> <p>17 A. Sneaky means sort of a reporter</p> <p>18 who breaks away from the pack of other</p> <p>19 reporters to go their separate way and</p> <p>20 break a news line. I can give examples of</p> <p>21 it. A person who is online at Rikers to</p> <p>22 interview someone but has already had it</p> <p>23 set up with a lawyer to go in but just</p> <p>24 hangs out with the other reporters to</p> <p>25 pretend like nothing is going on and then</p>	<p>1 Gotthelf - CONFIDENTIAL</p> <p>2 gets the exclusive interview. Sneaky is a</p> <p>3 high compliment.</p> <p>4 Q. Was Austin ever sneaky in his</p> <p>5 employment with the Post?</p> <p>6 A. I wish he was a lot sneakier.</p> <p>7 I'm trying to recall. I don't recall.</p> <p>8 Q. And the final sentence, always</p> <p>9 good to hire an African-American. Why did</p> <p>10 you write that?</p> <p>11 A. I was saying Mr. Fenner was well</p> <p>12 liked, which is a good attribute, he was</p> <p>13 very sneaky, which is a good attribute, and</p> <p>14 plus it's, you know, always good to hire an</p> <p>15 African America for diversity in the</p> <p>16 newsroom.</p> <p>17 Q. So is it fair to say that the</p> <p>18 vast majority in the newsroom are not</p> <p>19 African-American?</p> <p>20 A. The newsroom is --</p> <p>21 Q. I'm sorry, is it fair to say the</p> <p>22 vast majority of the reporters at the metro</p> <p>23 desk are not African-American?</p> <p>24 A. At the metro desk, I'm sorry, I</p> <p>25 just --</p>
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<p>1 Gotthelf - CONFIDENTIAL</p> <p>2 Q. The reporters that you manage,</p> <p>3 the vast majority are white, correct?</p> <p>4 A. Yes, the vast majority are white.</p> <p>5 Q. And was this that you were aware</p> <p>6 that you needed more diversity in the</p> <p>7 newsroom?</p> <p>8 A. I'm a huge advocate of diversity.</p> <p>9 If we have a chance to diversify, that's</p> <p>10 great.</p> <p>11 Q. So you're a huge advocate of</p> <p>12 diversity but you currently only have three</p> <p>13 -- or actually how many do you have</p> <p>14 currently?</p> <p>15 MR. LERNER: How many what?</p> <p>16 Objection.</p> <p>17 Q. How many African-American</p> <p>18 reporters do you have?</p> <p>19 A. Well, since I've been metro</p> <p>20 editor, I've hired two new African-American</p> <p>21 reporters.</p> <p>22 Q. How many do you have now?</p> <p>23 MR. LERNER: I don't think she</p> <p>24 was finished with her answer.</p> <p>25 A. Just going back to diversity,</p>	<p>1 Gotthelf - CONFIDENTIAL</p> <p>2 I've hired three Hispanic reporters. I can</p> <p>3 -- if you want to give me some time I could</p> <p>4 count how many I have now.</p> <p>5 Q. I'm not asking you about</p> <p>6 Hispanic. I just want to know how many</p> <p>7 African-American reporters do you have that</p> <p>8 you supervise right now?</p> <p>9 A. Just give me one more minute.</p> <p>10 Full-time?</p> <p>11 Q. Yes, full-time.</p> <p>12 A. I count four.</p> <p>13 Q. So in that e-mail, clearly you</p> <p>14 were taking Austin's race into account as a</p> <p>15 criteria for him working for you, right?</p> <p>16 A. No, I was laying out his</p> <p>17 attributes from what I heard that he is</p> <p>18 likeable, sneaky, and plus since I'm a fan</p> <p>19 of diversity, he's African-American.</p> <p>20 Q. And if you're such a fan of</p> <p>21 diversity, why are there no black editors</p> <p>22 on the metro desk?</p> <p>23 MR. LERNER: Objection.</p> <p>24 A. I take the most qualified</p> <p>25 applicants and many people on my desk I've</p>

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<p>1 Gotthelf - CONFIDENTIAL</p> <p>2 inherited.</p> <p>3 Q. But there have been openings for</p> <p>4 editors on the metro desk, have there not?</p> <p>5 A. Yes, and I've put applications</p> <p>6 and I've hired highly qualified people for</p> <p>7 my desk.</p> <p>8 Q. And have you ever tried to hire</p> <p>9 an African-American for one of those</p> <p>10 positions?</p> <p>11 MR. LERNER: Objection.</p> <p>12 A. I don't base anything on race. I</p> <p>13 look for the best candidate.</p> <p>14 Q. So that's a no?</p> <p>15 MR. LERNER: Objection.</p> <p>16 A. Sorry, restate the question.</p> <p>17 Q. Have you ever tried to hire an</p> <p>18 African-American for one of the vacant</p> <p>19 editorial positions?</p> <p>20 MR. LERNER: Objection. What</p> <p>21 is tried to hire?</p> <p>22 A. I don't understand that. I'm</p> <p>23 sorry, if you could explain.</p> <p>24 Q. Have you ever put forward any</p> <p>25 African-American candidates for the</p>	<p>1 Gotthelf - CONFIDENTIAL</p> <p>2 positions that have opened up on the</p> <p>3 editorial or the -- on the editorial staff?</p> <p>4 MR. LERNER: Objection.</p> <p>5 A. I have tried out an</p> <p>6 African-American on my city desk.</p> <p>7 Q. Who was that?</p> <p>8 A. Leonard Green.</p> <p>9 Q. When was this?</p> <p>10 A. Right before I made my -- I was</p> <p>11 going to say my most recent hire, but give</p> <p>12 me a second, I can -- when I had an</p> <p>13 opening.</p> <p>14 Q. And why wasn't he hired</p> <p>15 full-time?</p> <p>16 A. Mr. Green didn't want the job and</p> <p>17 wanted to continue writing.</p> <p>18 Q. Mr. Green turned it down?</p> <p>19 A. Mr. Green tried out on the desk</p> <p>20 for several days and when I asked him if he</p> <p>21 liked it, he said he wanted to continue</p> <p>22 writing.</p> <p>23 Q. Are you familiar with the travel</p> <p>24 patterns of your various employees?</p> <p>25 MR. LERNER: Objection.</p>
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<p>1 Gotthelf - CONFIDENTIAL</p> <p>2 A. I don't understand familiar with</p> <p>3 travel patterns.</p> <p>4 Q. Well, you dispatch your reporters</p> <p>5 to stories, correct?</p> <p>6 A. Me and my associate metro</p> <p>7 editors.</p> <p>8 Q. So if someone goes out of town on</p> <p>9 a story, would you know about that, right?</p> <p>10 MR. LERNER: Objection.</p> <p>11 A. Oftentimes.</p> <p>12 Q. Can you name any reporter who was</p> <p>13 dispatched on out of town stories more</p> <p>14 frequently than Austin Fenner during the</p> <p>15 two years that he was employed there?</p> <p>16 A. Yes.</p> <p>17 Q. Who are they?</p> <p>18 A. Lorena Mangeli and Rebecca</p> <p>19 Rosenberg.</p> <p>20 Q. And how often were Lorena and</p> <p>21 Rebecca sent out of town?</p> <p>22 A. I don't know.</p> <p>23 Q. So how do you know that they were</p> <p>24 sent out of town more often than Austin?</p> <p>25 A. Because I looked at my travel</p>	<p>1 Gotthelf - CONFIDENTIAL</p> <p>2 assignments to determine who was sent out</p> <p>3 the most and Mr. Fenner during his time</p> <p>4 period was not.</p> <p>5 Q. You looked at travel assignments,</p> <p>6 you have a record of all the assignments</p> <p>7 that people were sent out of town?</p> <p>8 A. Yes. We paid for these</p> <p>9 assignments.</p> <p>10 Q. Okay. Do you know if that --</p> <p>11 those documents have been produced in this</p> <p>12 case?</p> <p>13 MR. LERNER: Objection.</p> <p>14 A. I don't know.</p> <p>15 (Gotthelf Exhibit 20, NYP-FL</p> <p>16 797-798, marked for identification.)</p> <p>17 Q. I'd like to give you a document</p> <p>18 marked Gotthelf 20. Take a look at that,</p> <p>19 please. This is an e-mail from you on</p> <p>20 November 9, 2009, is that correct?</p> <p>21 A. Yes.</p> <p>22 Q. And for the record, this is Bates</p> <p>23 stamped NYP-FL 797. Could you read what it</p> <p>24 says there on the text?</p> <p>25 A. Yes. Make sure you have</p>

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<p>1 Gotthelf - CONFIDENTIAL</p> <p>2 MR. LERNER: You've answered it</p> <p>3 five times already, so go ahead and</p> <p>4 answer it again.</p> <p>5 A. I don't know.</p> <p>6 (Gotthelf Exhibit 23, NYP-FL</p> <p>7 34-44, marked for identification.)</p> <p>8 Q. Okay, I'd like to show you what's</p> <p>9 marked Gotthelf 23. Just take a quick look</p> <p>10 at that. I'm not going to go through it in</p> <p>11 detail. I basically just want to ask you</p> <p>12 if you've ever seen this before.</p> <p>13 A. I have never seen this before.</p> <p>14 Q. Okay, do you know what</p> <p>15 journalisms is?</p> <p>16 A. I do not.</p> <p>17 Q. Have you ever heard of</p> <p>18 journalisms?</p> <p>19 A. I have never heard of</p> <p>20 journalisms.</p> <p>21 Q. Have you ever heard of this</p> <p>22 article Three Things That Need Fixing in</p> <p>23 the New York Post?</p> <p>24 A. I never heard of it before</p> <p>25 Mr. Fenner filed his complaint.</p>	<p>1 Gotthelf - CONFIDENTIAL</p> <p>2 MR. LERNER: Can we just take a</p> <p>3 minute, because we have different</p> <p>4 things. All right. I received</p> <p>5 something different.</p> <p>6 Q. So you just said a minute ago you</p> <p>7 had never seen this article before the</p> <p>8 lawsuit was filed, is that correct?</p> <p>9 A. Yes, that is absolutely correct.</p> <p>10 Q. Do you recall anyone discussing</p> <p>11 this article before the lawsuit was filed?</p> <p>12 A. I do not -- well, absolutely not.</p> <p>13 No-one discussed it in front of me.</p> <p>14 (Gotthelf Exhibit 24, NYP-FL</p> <p>15 907-910, marked for identification.)</p> <p>16 Q. Ms. Gotthelf, I'm going to hand</p> <p>17 you what's been marked Gotthelf 24. If you</p> <p>18 could take a look at this, please.</p> <p>19 A. Yes.</p> <p>20 Q. Are you familiar with this</p> <p>21 document?</p> <p>22 A. Yes.</p> <p>23 Q. For the record, this is NYP-FL</p> <p>24 907 through 910. I'd like to direct your</p> <p>25 attention to the third page of this. It's</p>
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<p>1 Gotthelf - CONFIDENTIAL</p> <p>2 the page marked 909. And -- well, I guess</p> <p>3 first, what is this document I've just</p> <p>4 given you?</p> <p>5 A. This is Billy Gorta's 2008 APA.</p> <p>6 Q. And did you help prepare this?</p> <p>7 A. I did.</p> <p>8 Q. And you're marked here as the</p> <p>9 supervisor, right? On the first page? It</p> <p>10 says supervisor Michelle Gotthelf?</p> <p>11 A. Yes.</p> <p>12 Q. If you could look on the page</p> <p>13 909, could you read me that, where it says</p> <p>14 areas for focus and improvement?</p> <p>15 A. Yes. Billy has a temper that he</p> <p>16 needs to keep this check. He's been warned</p> <p>17 numerous times and has officially been</p> <p>18 written up by M-E Jessie Angelo. He is</p> <p>19 reluctant to oversee stories outside of his</p> <p>20 areas of expertise and has on occasion</p> <p>21 inflicted a negative attitude on the</p> <p>22 newsroom.</p> <p>23 Q. Do you know when he was written</p> <p>24 up by Jessie Angelo?</p> <p>25 A. I don't recall.</p>	<p>1 Gotthelf - CONFIDENTIAL</p> <p>2 Q. Was it around the same time as</p> <p>3 this or would it have been earlier?</p> <p>4 A. It would have been earlier.</p> <p>5 Q. In other words much earlier?</p> <p>6 MR. LERNER: Objection.</p> <p>7 A. Probably much, much earlier.</p> <p>8 Q. And is this true, did you write</p> <p>9 that, in this areas for improvement, for</p> <p>10 areas of focus and improvement?</p> <p>11 A. Yes, I noted that he needed to</p> <p>12 keep his temper in check.</p> <p>13 Q. And is what you wrote there, is</p> <p>14 that true?</p> <p>15 MR. LERNER: Objection.</p> <p>16 A. Yes. Billy yells. He's also an</p> <p>17 exceptional journalist.</p> <p>18 Q. Was there a decision made at some</p> <p>19 point to transfer him to Queens courthouse?</p> <p>20 A. Yes, there was.</p> <p>21 Q. What was the basis for that</p> <p>22 decision?</p> <p>23 A. Mr. Gorta was being demoted from</p> <p>24 his assignment as an associate metro editor</p> <p>25 to the Queens courthouse.</p>